
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

ERIC MARK KENYON,

Plaintiff,

v.

STATE OF UTAH et al.,

Defendants.

**MEMORANDUM DECISION &
ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT**

Case No. 2:24-CV-803 AMA

District Judge Ann Marie McIff Allen

On January 6, 2025, this action was dismissed without prejudice "[f]or Plaintiff's failure to follow the Court's orders and prosecute this case," after he failed to pay his \$10.83 initial partial filing fee (IPFF) and respond to a consequent order to show cause. (ECF Nos. 7, 10.) Nearly three months later, Plaintiff moved to "reopen case," arguing he was denied "due process" when the Court did not "allow[] the proper amount of time to set up account information." (ECF No. 12.)

The Court interprets Plaintiff's motion as a request for relief from judgment under Federal Rule of Civil Procedure 60(b), which states in relevant part, "On motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons [of] mistake, inadvertence, surprise, or excusable neglect . . ." Fed. R. Civ. P. 60(b)(1). Perhaps Plaintiff's argument could fit under the reason of mistake, suggesting the Court mistakenly did not allow enough time for him "to set up [his] account information." (ECF No. 12.) But--considering Plaintiff's account information was "set up" from the time the Complaint was filed--the docket contradicts any such argument by Plaintiff. For instance, Plaintiff included with his

Complaint his account information, attaching his account statement, (ECF Nos. 1-3); the Court's October 28, 2024 Order authorized the inmate-account office to file Plaintiff's Financial Certificate (FC) and IPFF, (ECF No. 4); the inmate-account office filed the FC, including the amount of the IPFF, within two days of the Order, (ECF Nos. 4-5); Plaintiff was given extra time to file his IPFF through the additional thirty days given by the Order to Show Cause, (ECF No. 7); and, after the Order to Show Cause was returned to sender because Plaintiff's address changed, the Court re-mailed the Order to Plaintiff's new address, (ECF Nos. 7-9). In short, during the ten weeks between the submission and dismissal of the Complaint, Plaintiff was given adequate chance to comply with the requirement to file his \$10.83 IPFF. Plaintiff therefore has not shown that "mistake, inadvertence, surprise, or excusable neglect," Fed. R. Civ. P. 60(b)(1), resulted in dismissal of this action.

IT IS THEREFORE ORDERED as follows:

(1) Plaintiff's motion for relief from judgment is **DENIED**. (ECF No. 12.) Plaintiff should bear in mind though that, as this action was dismissed without prejudice, he is welcome to refile his complaint within a new action.

(2) This action remains closed.

DATED this 10th day of April, 2025.

BY THE COURT:



JUDGE ANN MARIE MCIFF ALLEN
United States District Court